

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

DeWAYNE WALKER, SR, KAREN	:	
WALKER, his wife, D.W., JR., minor	:	
child, and T.W., minor child,	:	
	:	
Plaintiffs,	:	C.A. No. 06-288***
	:	
v.	:	
	:	
THE CITY OF WILMINGTON, a political	:	
subdivision of the State of Delaware,	:	
DETECTIVE MICHAEL R. LAWSON, JR.,	:	
individually and in his official capacity, and	:	
UNKNOWN ENTITIES,	:	

**DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

For the reasons stated in the accompanying Opening Brief in Support of Defendants' Motion for Summary Judgment, and there being no disputed issues of any material facts, Defendants, City of Wilmington and Detective Michael R. Lawson, Jr., hereby move this Honorable Court to issue an Order granting summary judgment in favor of Defendants, based on the following eight grounds:

- 1) The Section 1983 claim arising the Fourth Amendment, as set forth in Counts I and IV, fails as a matter of law because the police entry into Plaintiffs' home was authorized by a search warrant that is valid under the two-prong *Franks* test, and the execution of the search warrant was reasonable in duration and manner.
  
- 2) The Section 1983 claim for negligence, false arrest, battery and civil rights, as collectively set forth in Count II, must fail as a matter of law because state torts are not constitutional injuries for which Section 1983 provides a remedy.
  
- 3) The Section 1983 claim for the City's failure to train and/or supervise its police officers, as set forth in Count III, must fail as a matter of law because Plaintiffs have not established



(1) a constitutional injury, (2) a deficiency in the training of City police officers, or (3) deliberate indifference by City supervisors toward Plaintiffs' constitutional rights.

4) The due process claim arising from Fourteenth Amendment, as set forth in Counts IV and VI, must fail as a matter of law because the Due Process Clause does not apply to the lawfulness of searches and arrests, which are only analyzed under the Fourth Amendment.

5) The equal protection claim arising from Fourteenth Amendment, as set forth in Counts IV and VI, must fail as a matter of law because Plaintiffs have not proven that the mistaken entry into their home was the result of any purposeful race-based discrimination.

6) The state law claim for false imprisonment, as set forth in Count VII, must fail as a matter of law because the arrest privilege allows law enforcement officers to enter a home and detain its occupants when executing a valid search warrant.

7) The state law claim for battery, as set forth in Count VIII, must fail as a matter of law because the arrest privilege also allows law enforcement officers to use some degree of force when executing a valid search warrant.

8) Detective Lawson has qualified immunity for Plaintiffs' federal constitutional claims, which are set forth in Counts I through VI, because he acted with probable cause when applying for and executing the search warrant for Plaintiffs' home, which precludes an actual violation of the Fourth Amendment or any other clearly established constitutional right.



WHEREFORE, Defendants, City of Wilmington and Detective Michael A. Lawson, Jr., respectfully request that the Court enter an Order granting summary judgment in favor of Defendants and dismissing Plaintiffs' Complaint with prejudice.

/s/ Alex J. Mili, Jr.  
Alex J. Mili, Jr., Esquire (I.D. #4125)  
Senior Assistant City Solicitor  
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800 N. French Street, 9<sup>th</sup> Floor  
Wilmington, DE 19801  
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Attorney for Defendants City of Wilmington  
and Detective Michael R. Lawson, Jr.

DATE: June 26, 2007



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**ORDER**

\_\_\_\_\_This \_\_\_\_\_ day of \_\_\_\_\_, 2007, the Court having considered  
Defendants' Motion for Summary Judgment, and any opposition thereto,

It is HEREBY ORDERED that Defendants' Motion for Summary Judgment is hereby  
GRANTED.

_____	_____
_____	<b>J.</b>



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**CERTIFICATE OF SERVICE**

I, Alex J. Mili, Jr., Esquire, hereby certify that on this 26<sup>th</sup> day of June, 2007, I filed Defendants' Motion for Summary Judgment with the Clerk of Court using CM/ECF which will send notification of such filing(s) that this document is available for viewing and downloading from CM/ECF to the following:

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/s/ Alex J. Mili, Jr.  
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